

Serial No. 10/613,785  
Filed: July 3, 2003

### **REMARKS**

With entry of the present amendment claims 1 to 13, 15 to 19 and 21 to 23 are pending. Claims 14, 15, 20, 24, and 25 have been canceled without prejudice to the filing of a divisional application. Claims 1 and 18 have been amended to delete option (b) for A; i.e. A is an ethylene or substituted ethylene group. No new matter has been added by these amendments. Applicants appreciate the Examiner's indication of allowable subject matter in claims 8 to 13, 15, 17, 19 and 21.

No additional fees are believed due. However, the Director is hereby authorized to charge any deficit, or credit any overpayment, to Deposit Account No. 08-2525.

### **REJECTION OF CLAIMS 24 AND 25 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH, AS LACKING ENABLEMENT**

Claims 24 and 25 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. While not acquiescing to the rejection, Applicants have canceled claims 24 and 25 without prejudice to filing a divisional application directed to this subject matter, rendering the rejection moot.

### **REJECTION OF CLAIMS 1 TO 3, 5, 6, 14, 18, AND 20 UNDER 35 U.S.C. § 102 AS ANTICIPATED BY FR 2,645,019**

Claims 1 to 3, 5, 6, 14, 18, and 20 stand rejected under 35 U.S.C. § 102 as anticipated by FR 2,645,019 ("FR'019"). In particular, the Office Action states that FR'019 describes a compound at page 44, lines 25-26, that anticipates the instant claims when A is CH<sub>2</sub>CH<sub>2</sub>; R<sup>21</sup>, R<sup>22</sup>, R<sup>23</sup>, R<sup>24</sup>, and R<sup>3</sup> are hydrogen; R<sup>1</sup> is halogen; and n is 1.

Applicants respectfully traverse this rejection for the following reasons. The claims have been amended to remove the option of A as CH<sub>2</sub>CH<sub>2</sub>. The claims as amended are directed to compounds in which A is -CR<sup>4</sup>=CR<sup>5</sup>- or -C≡C-. FR'019 does not teach or suggest compounds

where A is  $-\text{CR}^4=\text{CR}^5-$  or  $-\text{C}\equiv\text{C}-$  and, thus, does not anticipate the claims. For at least these reasons, Applicants respectfully request reconsideration and withdrawal of this rejection.

**REJECTION OF CLAIMS 1 TO 7, 14, 18, AND 20 UNDER 35 U.S.C. § 103 OVER FR 2,645,019**

Claims 1 to 7, 14, 18, and 20 stand rejected under 35 U.S.C. § 103 over FR'019. In particular, the Office Action states that there are two differences between the claimed compounds and those of the reference. First, the claimed compounds contain a benzyloxy phenyl that is substituted with fluorine whereas the referenced compounds are substituted by a chlorine atom. Second, in the claimed compounds  $\text{R}^3$  is methyl whereas in the referenced compounds  $\text{R}^3$  is hydrogen.

Applicants respectfully traverse this rejection for the following reasons. The claims as amended are directed to compounds in which A is  $-\text{CR}^4=\text{CR}^5-$  or  $-\text{C}\equiv\text{C}-$ . FR'019 does not teach or suggest compounds where A is  $-\text{CR}^4=\text{CR}^5-$  or  $-\text{C}\equiv\text{C}-$  and, thus, does not anticipate nor render the claims obvious. For at least these reasons Applicants respectfully request reconsideration and withdrawal of this rejection.

**REJECTION OF CLAIMS 22 AND 23 UNDER 35 U.S.C. § 103 OVER FR 2,645,019**

Claims 22 and 23 stand rejected under 35 U.S.C. § 103 over FR'019. In particular, the Office Action states that FR'019 describes a process in which benzyl chloride is reacted with a phenol to obtain a benzyloxy compound. The reference is also said to describe the reaction of an ester and an amine to produce an amide. The Office Action states that the difference between the reference and the claims is that different starting materials are used to produce different end products.

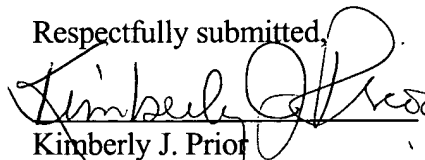
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Applicants traverse this rejection for the following reasons. In accordance with the Federal Circuit's decisions in *In re Ochiai*, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995) and *In re Brower*, 37 U.S.P.Q.2d 1663 (Fed. Cir. 1996), all claim limitations must be considered when weighing the differences between the claimed invention and the prior art in determining the obviousness of a process or method claim. The instant claims each are dependent on claim 1. As noted above, FR'019 does not teach or suggest the compounds of claim 1 as amended. Since FR'019 does not teach or suggest the starting materials or final products of process claims 22 and 23, it cannot teach or suggest the process claims as a whole. For at least these reasons Applicants respectfully request reconsideration and withdrawal of this rejection.

The foregoing amendment is fully responsive to the Office Action issued September 20, 2004. Applicants submit that Claims 1 to 13, 15 to 19, and 21 to 23 are allowable. Early and favorable consideration is earnestly solicited.

If the Examiner believes there are other issues that can be resolved by telephone interview, or that there are any informalities remaining in the application which may be corrected by Examiner's Amendment, a telephone call to the undersigned attorney is respectfully solicited.

Respectfully submitted,



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